



Entered on Docket
February 01, 2006

A handwritten signature in black ink, appearing to read "Gregg W. Zive", is written over a horizontal line.

Hon. Gregg W. Zive
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

BK-N 04-50962-GWZ
Chapter 11

MEGA-C POWER CORPORATION

Date: January 5, 2006
Time: 10:00 a.m.

Debtor.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW RE MOTION TO APPROVE
SETTLEMENT AGREEMENT WITH AXION ET AL.
PURSUANT TO FED. R. BANKR. PROC. 9019**

The Motion to Approve Settlement Agreement With Axion Et Al Pursuant to Fed. R. Bankr. Proc. 9019 ("Motion") came on for hearing before the above-captioned Court on January 5, 2006, at 10:00 a.m. William M. Noall, Chapter 11 Trustee, appeared in person and by and through his counsel, Gerald M. Gordon, Esq., of the law firm of Gordon & Silver, Ltd. The Unaffiliated Shareholders appeared by and through their counsel, David W. Huston, Esq. and Donald N. Plumley, Esq. of the law firm of Lang Michener, LLP. The Taylor Group appeared by and through Fred A. Platt, Esq. and Gregory L. Wilde, Esq., Axion Power Corporation and Axion Power International, Inc. appeared by and through their counsel, Cecilia L. Rosenauer, Esq. of the law firm of Cecilia L.

1 Rosenauer, Ltd. Sally Fonner, Trustee of the Shareholders Trust appeared by and through her counsel
2 Alan R. Smith, Esq. of the law firm of Alan R. Smith. All other appearances were noted in the
3 record.

4 As orally set forth on the record, the Court considered the Motion and papers and pleadings
5 in support thereof, all oppositions thereto, the arguments of counsel, other pleadings, papers,
6 documents, cases and precedents and transcripts as orally identified by the Court on the record
7 pertaining both to this Case and adversary proceedings pending in this Cases, and the findings of fact
8 and conclusions of law previously announced by this Court at the hearing held in this matter on
9 September 1, 2005.

10 In accordance with Fed. Rules Civ. Proc. Rule 52, as adopted pursuant to Fed. R. Bankr. 7052
11 made applicable by operation of Fed. R. Bankr. Proc. 9014, the Court has set forth orally and recorded
12 in open court its findings of facts and conclusions of law in support of the Order Approving Motion
13 to Approve Settlement Agreement With Axion Et Al Pursuant to Fed. R. Bankr. P. 9019 (“Order”),
14 and such findings and conclusions are incorporated herein. The Court enters these additional findings
15 of fact and conclusions of law:

16 **FINDINGS OF FACT**

17 1. The Parties to the Settlement Agreement, a copy of which Settlement Agreement is
18 attached to the Motion as Exhibit “A”, is the result of good faith, arms-length negotiations.

19 2. Article 9 of the Shareholders Trust Agreement both originally and as amended,
20 provides that the Trustee of the Shareholders Trust has the power to compromise claims. Article 9
21 has not been amended out of the Shareholders Trust Agreement.

22 3. This Court makes no factual finding regarding Ms. Fonner’s conduct as Trustee but
23 does find that the Settlement Agreement was reached in good faith by all parties and was consistent
24 with Ms. Fonner’s powers as Trustee.

25 4. Under all the circumstances in the record, Axion is best situated to continue to raise
26 capital research and develop the Technology and ultimately bring the results to market if its efforts
27 are successful.
28

5. It is in the best interests of the Estate to (i) enhance Axion's ability to obtain capital by resolving the Disputes; (ii) support Axion's efforts to complete the development of the Technology and ultimately bring any resulting products to market in a systematic and timely manner; and (iii) obtain the benefit of 5,700,000 Axion shares (Plan Funding Shares) in the Shareholders Trust, the proceeds of sale of up to 1,000,000 shares of which become property of the Estate as provided for in the Settlement Agreement and the balance of which will be used to effectuate the Plan upon the Effective Date of the Plan.

6. As explained by the Trustee at the hearing, paragraph 9 of the Settlement Agreement neither restricts the right of the Trustee to object to the allowance of Claims and Equity Security Interests nor compels the Trustee to object to the allowance of Claims and Equity Security Interests.

7. The Disputes settled by the Settlement Agreement are complex. The continued prosecution and defense of the Disputes would necessarily be protracted and costly to the Estate. The eventual outcome of the Disputes is uncertain.

8. Notice of the Motion and the hearing on the Motion was proper and appropriately provided by the Debtor to Creditors, Equity Security Holders and all parties in interest in this Case.

9. Any Findings of Fact that are more properly described as Conclusions of Law shall be deemed Conclusions of Law.

CONCLUSIONS OF LAW

1. For the reasons and in reliance upon the Findings of Fact, the resolution of the Disputes within the scope of the Settlement Agreement is fair and reasonable and satisfies the standards of Fed. R. Bankr. P. 9019(a) and The Protective Comm. for Indep. Stockholders of TMT Trailer Ferry v. Anderson, 390 U.S. 414 (1958) and In re A&C Properties, 784 F.2d 1377 (9th Cir. 1986).

2. Any Conclusions of Law that are more properly described as findings of Fact shall be deemed Findings of Fact.